customer, the four- to 10-line customer. The disconnects were all evaluated, and the only disconnects that we counted were ones where people reported they were going to a competitive carrier. So, I think the disconnect numbers are correct.

And I think that information shows that we've lost a lot of lines to small business competitors before there was even a UNE platform available to business, and it's our experience that the carriers we're losing to are the carriers that have put switches in and are using their own loops or our UNE loops and are more or less following the Allegiance plan, although Allegiance -- I mean, there are several other carriers like Allegiance that are present in our region that are taking up lines, and that we continue to lose a very significant share on a monthly basis of small business lines.

And the lines that we lose most of are at the lower end of the market, the one- to 10-line sort of customer that most CLECs have identified as the sort of customer that the Bell companies aren't so good at giving personal service to. And the CLECs have this model of giving more personal service to those customers. So, the information we've put out, I think, is pretty reliable. And I'll sit around and go through it in more detail, but they are real disconnects and they are real market share losses.

MR. TRINCHESE: Dorothy, I want to just go back to some basics here and just figure out if I've missed something in the process. I've heard the arguments about the digital divide and analog to digital, and I'm a little concerned here that we're kind of losing focus. As far as --

MS. ATWOOD: Perhaps you are. I'm kidding.

MR. TRINCHESE: Highly possible. The intent of the Commissioner's effort to determine whether a carrier was impaired or not was, I believe, to determine whether or not a carrier could compete for a particular customer or to serve a particular customer. The studies that have been put forward and the arguments we've been hearing today kind of avoid that issue. It includes in the argument a conversion of an existing customer's service to a different service, and the argument is based on the fact that if I had four lines today -- and I wouldn't say they're analog or digital -- if I had four lines today and I was a business customer being served by four lines or if I was being served by eight lines, that the only way that CLEC could compete for those lines is if they built a T-1 system out to that customer's premises and served that customer over a DS-1. Well, I'm a little -- that may be the way they elect to do business, but that's not something the Commission recognized was a viable determination of finding out whether they were impaired or not. In fact, in your order you specifically said you didn't want to see a business model that would drag you into the business they wanted to be in and technology selection.

MS. ATWOOD: That's true, but let me -- how I've distilled the way in which each of the parties comes at this is, I think you want to focus on the existing facilities, and they want to focus on the lack of ability to enter a market, whether you look at it as an economic or a market matter. And in some respects, the Commission rejected both of those approaches. To some degree, the Commission -- and to a large degree, the Commission in its impairment analysis said we look at a lot of factors, we don't focus just on facilities, we don't focus just on whether you lose money.

We look at a variety of factors, including the kinds of facilities, including the kind of market opportunities there are. And what makes this hard is the fact that you guys are both taking -- you're relying on kind of, I think, positions that aren't embracing the way in which the Commission looked at this, looking at more factors than just facilities or just economics. But if I can, I just want to probe a little, because I think I'm not necessarily understanding fully the argument that you're making, and I want to understand it a little bit better because it goes to an ex parte that you filed.

I understand your argument to focus on the reason that you're not going to go in and put in a T-1 for that customer -- or the reason you want to only enter the market for a small business customer with a T-1 is because operationally, you can't, in fact, -- it makes no sense for you because of the operational hurdles, the hot cut problems, the provisioning problems, for you to enter a market unless you have that dedicated facility, that large facility. Is that right?

I mean, you focus on the processes and the fact that you're going to -- it's a provisioning problem for you, it's a provisioning expense for you. As I understood the way in which you evaluated, it focused on the provisioning aspect, right? I mean, is that why the model doesn't work?

MR. SCOTT: Yeah, that's a big portion of the reason the model doesn't work. What we found, and what I think every CLEC has found -- probably including Allegiance, and I'll come back to, I think, a distinction between a lot of us in the experience Allegiance has seen -- is that problems with using the single loops and processing them. And I'll give you an example. When we process a single loop and send an order through Southwestern Bell's systems, we've had approximately 35 percent of the orders fall out of the automated process that now have to be dealt with one by one. It's actually a part of a complaint that we filed before the

Texas Commission.

Subsequently, on the manually processed orders, 35 percent of those were in error status by Southwestern Bell. We found that provisioning intervals were inconsistent from Southwestern Bell, that the conditions of the loop were all over the map, that the difficulty of coordinating hot cuts in the way we serve business, which is substantially different than Allegiance would approach it -- again, we're in a lot of different markets serving throughout the metropolitan area and not focusing on dense areas or major markets -- that it was a nightmare. And we found that the cost of provisioning a circuit was just off the charts.

Now, a difference here is that -- and I'll admit this, Allegiance is one of the best-financed CLECs in the industry. Allegiance has raised about, I think about $2.5 billion to finance its business plan -- and you look at its operating losses since they've started. I think they have the capacity of bearing a great deal more pain than almost anybody else in the industry, and in order to establish a market position, pay for that cost. But if the Commission is interested in the industry in general doing well, surviving, then --

MS. ATWOOD: But that's what I'm getting at, because, I mean, at least -- you're citing statistics in Texas, but the Commission found in Texas and in New York that the hot cut performance and the provisioning performance were, in fact, sufficient to allow the checklist to be met and --

MR. SCOTT: Actually, let me correct that. I think you found that that, coupled with the agreement that Southwestern Bell for UNE-P to be available and unrestricted in that state, that that was sufficient for the checklist to be met.

MS. ATWOOD: Well, true, but we looked at UNE-L and had to pass UNE-L in order for us to find in both of those states that, in fact, the performance and provisioning of hot cuts was done in a timely and cost-effective manner. And we can disagree over whether you thought we were right or not, but the fact of the matter is that we did find that, as a Commission, and so part of -- excuse me?

MR. PHILLIPS: Did the Texas --

MR. TRINCHESE: As did the Massachusetts Commission, the New York Commission and the FCC --

MS. ATWOOD: Well, the Massachusetts Commission has not -- I mean, this Commission has not found yet with the Massachusetts Commission, so we'll leave that off the table. But what I'm getting at is, if in fact what a lot of this boils down to -- a lot of your position boils down to is a problem of provisioning, then does it go away in the states where there's an acknowledgment that the hot cut performance is adequate?

MR. GILLAN: No. I mean, first of all, I think you have to appreciate the fact that one of the reasons you could reach that conclusion was the existence of UNE-P, and I think that that was where you were going. What you found, as I understand it, was that they're providing loops to the people who were asking for them at the levels they were asking, to meet the markets they were using at a level that met the checklist. The question you would have to answer, I think, to take away switching would be, all right, at the time I think you approved the Texas application, they were handling 2,000 unbundled loop orders a month and 22,000 UNE-P orders, a number which I'm sure has increased dramatically since then. The question is, what happens if you took those 22,000 UNE-P orders and tried to force them --

MS. ATWOOD: But you wouldn't be, right?

MR. GILLAN: Hold on. No, you're right.

MS. ATWOOD: Because you're talking about the residential market. That's off the table.

MR. GILLAN: No, you're not just talking about residential, you're talking about residential and small business. I mean, they may say -- and obviously, they did -- that people want to use this for residential service. That defies the whole existence of the Pace Coalition, which has people who serve both residential and business, but nobody, nobody, I think, believes that they can make it just serving residential. None of our members, none of the companies that we're talking to would have a business strategy if they really were ultimately cut back to being told, your principal competitor is going to be out in the market, not having to migrate any customers and being able to recover all of its common costs over business and residential, but we're going to tell you that if you get in the market to compete against that guy, you've got to take all those common infrastructure costs and recover it only on the residential side, which was something of a tangent from the larger point I was trying to make about the loop provisioning.

Your loop provisioning finding goes to that level for those customers. I don't believe -- what we're saying is that you couldn't have that 22,000 and all those other business -- I mean, how many business customers do you have?

MR. SCOTT: We have approximately 50,000 business customers.

MR. GILLAN: Yeah. That would not -- those would not -- those 50,000 people would be without competitive choice without this, as a practical matter.

MS. CAREY: I wanted to say to you, with the legal finding that the Commission made, when the Commission looked at checklist compliance, we looked to see whether the FAQ (phonetic) is provisioning that particular element reasonably and is capable -- has processing capability to serve as at reasonable foreseeable demand. And that is part of the checklist.

MR. GILLAN: But the reasonable foreseeable demand is only -- is itself the constraining factor here. There's only a certain volume of orders you should expect because there aren't -- they're just simply are not that many carriers. I mean, Birch went in and left. You read Focal's ex parte. You read MCI's ex parte, as I understand it, that they don't even use loops to migrate customers with analog service to digital. The customer already has to be digital, effectively, before you start deploying --

MR. PHILLIPS: And you have an ex parte that was filed not just by Allegiance but by four other CLECs, saying that they do, and SBC is, in fact --

MR. GILLAN: Hold on. No, no, no. They did not say that. They did not say that, because what they said was basically regurgitated back to the FCC, what you had found earlier. And you said do this again. Allegiance serves some of these customers, and we've already discussed that they have different revenue streams that not all CLECs have chosen to take advantage of. See Beyond doesn't do anything, they're not in the market. So, the probative value of a company that intends to do something in the future has got to be seriously limited. Time Warner gets 40 percent of its revenues from 10 customers, and its 10-Q represents that they only serve medium to large businesses. So, they're not even down in this small business category.

MS. MORELLI: And they're average line per customer is 48.

MR. GILLAN: So, I mean, while there are signatures on that, I mean, one has to place in perspective the business strategies of the companies that signed it.

MR. PHILLIPS: Let me make a few mentions in response. First, this was just a snapshot, but there is evidence other than the Bell South evidence. Verizon put evidence in the record. They took a snapshot, admittedly just a small snapshot -- New York in July -- but 99 percent of the lines ported -- and they put this in the record -- in New York in July were associated with orders of 12 lines or less, which means when the line is ported, the CLEC was using its own switch. So, in 99 percent of the cases in which there was a number of portability orders submitted to Verizon for a switch-based CLEC service, the service involved 12 lines or fewer. Number one.

Number two is, there is, I think, a logical gap in the argument when you talk about Time Warner focusing on large-business customers, because if you have a switch and you have co-location, there is no reason why you cannot, in fact would not, want to use that switch and co-location space to serve smaller business customers, as well. And there has been data put in the record by Pace about, you know, essentially arguing that unbundled loops are insignificant market entrance strategy, but the data is old data. Pace alleged that SBC has 167,000 unbundled loops in service. The number is 750,000. It's not even close.

MR. GILLAN: Are all those by themselves or are some of those unbundled loops that are sold as part of a UNE-P configuration?

MR. PHILLIPS: Those are unbundled loops not part of the UNE-P configuration, and they exclude DSL, as well.

MR. GILLAN: How do you know that?

MR. PHILLIPS: There's over 400,000 in just the Ameritech territories.

MR. GILLAN: Okay.

MR. PHILLIPS: And so, it's not an insignificant market strategy, it's a real market strategy, and it's one that is being used today.

MR. TRINCHESE: You almost got to the point I wanted to get to anyway, but that's fine. I think you're getting there. Just to -- well, to the point that -- this should be based on the ability to take over a customer -- and not on a business plan. But just to support what Gary said, of the 99 percent of the hot cut -- not hot cuts, of the numbers that we port that are associated with orders with 12 lines or less, 60 percent of those, 60 percent are even less than four lines. So, there are 40 -- those to their own switches, not our facility.

As far as unbundled loops, Verizon East -- not the GTE territory itself -- to date has 400,000 unbundled loops in service. Those do not include DSL loops, they do not include any loop other than a two-wire analog loop. 400,000 of them.

MR. GILLAN: In a territory of 13.8 million business lines.

MR. TRINCHESE: Excuse me.

MR. GILLAN: Almost 14 million business lines.

MR. TRINCHESE: I'll let you know when I'm done. We've ported two million numbers. Those numbers went to CLEC switches. From a business perspective, for the first eight months of this -- I'm sorry, to October 8th of this year, we've lost 360,000 lines to customers in the Verizon territory that were served with 12 lines or less. Those customers have gone. And the numbers we have on platform demonstrate that 93 percent of the platform that Verizon provides is provided for residential use.

MS. ATWOOD: Can I just ask you guys to comment on that fact, because I want to find out how we are differing on the facts here.

MR. GILLAN: I'm not going disagree with him necessarily on the fact, but on the context.

MS. ATWOOD: Just in terms of percentage. I mean, is it in fact true on the context of the platform that it's beyond a vast majority, that over 90 percent -- let me put it that way, because we won't quibble on 3 percent -- but over 90 percent goes to the residential piece, and we're really talking about of the cut, of the market for platform.

MR. SCOTT: I'll give you some numbers. I certainly can't talk about the Verizon territory at all, but I can talk about Missouri and Kansas, and we've taken Southwestern Bell filings for the number of lines that were lost in the states of Missouri and Kansas: 145,378 Kansas, 127,596 total lines lost to CLECs. Now, the thing that puzzles me here is that Birch has 32 percent of those lines in Missouri. And I can tell you that they are -- a large percentage of those are on the platform and that all of those that are on the platform are serving business customers.

So, it's a completely different situation in Missouri and Kansas. 51 percent of the lines that were lost to competitors have been lost to Birch. And a large percentage of those are businesses that are on the platform that we would otherwise not be able to serve. So, I mean, I don't know, we've got a lot of facts swirling around.

MS. ATWOOD: And those businesses are four lines or less.

MR. SCOTT: Those are going to be a distribution of lines. I would say that about 60 percent of those are four lines and less. We could get the exact distribution. About 90 percent of them are less than 12 lines.

MR. CROWNE: Since Allegiance has been mentioned a couple of times going around table since last I spoke -- just a couple of things here. We measure small businesses, small and medium-sized businesses as 25 lines or less. We don't have a revenue ceiling. We very carefully track what we perceive the market to be, which is generally public information as far as number of lines -- business access lines -- in a wire center. We find that, overall, across Allegiance in all 26 of those markets, we have penetrated approximately 2.2 percent of what we perceive to be our available market, which is small- and medium-size businesses in the geographic regions that we serve.

That 2.2 percent represents, also, well over 50,000 different customer names, hardly a negligible entry. I can't speak to the CLEC industry as a whole, but I can tell you that if the 2 million ported numbers in Verizon territory is accurate, we aren't getting our share, because we've only got about 600,000 ported over nationwide, and that's in all territories. So, put those numbers in perspective. The only other observation I'd say to some of the comments that have come around regarding Allegiance is that I would not characterize Allegiance's ability to execute based on it being exclusively due to our ability to raise capital. Quite the opposite.

I think the cause and effect is somewhat backwards on those two elements. And there really is no secret to what we're doing. Basic block and tackling. Getting in, getting the problem solved, escalating to the regulatory bodies when appropriate, but working on a day to day basis.

MR. SCOTT: This isn't an insult at all. In fact it's a compliment, but you guys started with how much inequity before you had operations? Several hundred million dollars?

MR. CROWNE: One hundred million.

MR. SCOTT: One hundred million dollars in equity. How much pledged at that point?

MR. CROWNE: Actually, that was the pledged number. We had operations, I believe it was about half that.

MR. JONES: This is a red herring. I mean, this ability to raise capital doesn't really mean -- I mean, as the travails of the X-DSL providers recently demonstrated, it doesn't really mean anything. But I just would like to address this ex parte that was also filed by the CLECs. The reason -- some of those CLECs have not focused on the small, medium business market yet, but they're actually going down-market increasingly as they find that they can do so efficiently. That's the very point of that ex parte. You know, they haven't been heavily involved -- accept Allegiance -- recently in this proceeding, because they really haven't considered that to be an important part of their business plans.

But the Time Warner telecoms of the world are certainly seriously working to build their entry for that market segment to go down to the smaller customers. See Beyond hasn't started serving anybody, but I take it that that's sort of part of the analysis here. See Beyond is a startup company that is planning, they're looking at all the entry barriers as they exist right now, and they're planning to deploy switches to serve exactly the small business customer market that you're talking about here. So I think they're highly relevant, actually, to this analysis.

You also mentioned -- and again, I think this is a bit of a red herring, but I think it's worth responding to it briefly -- 43 percent of revenue that Allegiance gets from recip comp and access charges, I presume that access charges would be collected by any of the companies in question that are trying to use the UNE-P as an entry mechanism, because that's one of the great advantages of the UNE-P, is that you get access charges. And that's also revenue associated with end users, so I don't really know what that has to do with anything.

MR. SCOTT: I think you have to point out that there are widely different rates that are being charged by access. We mirror the rates of the dominant company.

MR. PHILLIPS: How is this relevant?

MR. JONES: Yeah. You have to take this market as it exists. I mean, there are entry barriers and market opportunities in, you know --

MR. PHILLIPS: The implication of the statement was that Allegiance does not have a quote unquote "real business plan," and they're out to just skim recip comp but, I mean, in fact, it's quite evident that Allegiance is consistently pointed to by analysts as one of the CLECs that is best positioned precisely because they have revenues that are not based upon regulatory arbitrage, like recip comp and excessive access charges.

MS. ATWOOD: Can I lead us back down to the -- I mean, we can discuss the success of Allegiance, but I would like to get us back to the issue here -- excuse me?

MR. GILLAN: Well, I don't think anyone ever answered your question about the 93 percent.

MS. ATWOOD: Yeah. And what I really wanted to get at was I was just trying to get an understanding here because it's been a bit of a -- there's been a lot on the record and it's been difficult for us to assess what really -- what percentage of this market is -- the small business market is being served by the platform. You know, you've discussed when it makes sense for you all to go into the market and that that is through a platform strategy, but the question that still remains at least as murky for me in understanding this is, first, I have trouble understanding what you all think of as a small business, because that tends to be widely different depending on who you ask. It's 25 lines, it's $100,000 in revenue, it's less than four.

You know, I mean, everyone has a different conception, so I have an issue about what is small business. But from the perspective of assuming there is some form of a uniform understanding of a small business, how much of that is served by the platform market? And that was what I was getting at to try to understand. I believe that your position would be very little of it, 10 percent of the platform market is small business.

MR. GILLAN: Here is the concern that I'm -- we have worked very hard to try and make you understand that we're not AT&T, we're not MCI, we are the new carriers that are coming in. And no disrespect to AT&T or MCI, but -- and I don't mean any implication of disrespect -- these carriers are coming in trying to offer services, putting together different packages, deploying facilities, X-DSL strategies, all kinds of things. It's clearly the carriers trying to innovate. At this level of carrier, okay, these carriers are relying heavily -- that we're representing -- on the platform.

Now, will that show up in the statistics that Verizon cites very easily? No. Because of the fact that in the Verizon territory, the two big carriers, AT&T and MCI, have bought the platform exclusively to serve the residential customers, it's very hard for those statistics to show our existence through just all those lines that those carriers have purchased. So when they tell you that 93 percent of the lines are for residential, what they're really telling you is AT&T and MCI use the platform to serve residential customers. What we're trying to tell you is that for those of us that are trying to bring competitive products into the smaller business market, which we're really defining sort of as analog customers that haven't gone digital yet, the platform is a very important, necessary requirement.

But are you going to see us in those aggregate statistics when they're dominated by AT&T and MCI? I think not. And that's the only phenomenon you see with the 93 percent.

MR. BANKS: But your question remains, because I think you can look and see how many business lines we've lost to CLECs and ask what percentage of that is served over the UNE platform. And I didn't come with that number, but I suspect that, well, it was zero percent up until February of last year until the union remand order took effect.

MS. ATWOOD: Just one question about your statistics on the zero percent. You offered the platform, it was just a lot more expensive, right?

MR. BANKS: Yes.

MS. ATWOOD: So, it wasn't that the platform wasn't available, it was that it was really expensive.

MR. BANKS: It's my impression that no one used the UNE platform to serve business at the market rate. We had a few thousand UNE platform business lines.

MR. GILLAN: We have members in the Bell South region who are using it who are starting up, who are coming to the Bell South region. It is true that Bell South's strategy of keeping up, refusing to offer this until February of the year 2000 has delayed you seeing this --

MS. LEVITZ: No, but we have two customers who prior to February had signed onto our UNE-P offering that had the professional service charge in addition to the UNE rate charge.

MR. SCOTT: Let me talk about that --

MR. BANKS: We can figure out the percent. I think it will be very low.

MR. SCOTT: Since we're kind of the poster child for UNE-P, I think it's -- working with these aggregate numbers, I think maybe our own experience in composition of business might be more illustrative. We've got about 210,000 access lines in service right now. We started using platform in any scale whatsoever back in May of '99 in a launch in Texas. All of our lines in Texas are done under the platform. All are serving small business. Today, about 65 percent of our total base of lines will be done under the platform, and 100 percent of the incremental lines. Actually, higher -- more than 100 percent, because we're converting some of the resale lines to the platform as we grow our market share.

The numbers are a lot lower in Missouri and Kansas, because we had to fight for the ability to do the platform state by state. Texas was out ahead of everybody else. We've begun a program to expand into the Bell South region and the reason that a lot of people haven't been doing UNE-P, and we don't see a large number nationwide is, it's been a state-by-state development. And so, a lot of us are just getting going, a lot of companies are just gearing up to do this. It's not a simple thing to do from a systems perspective.

And so, you'll see this become more and more important. Evidence the announcement that Clark McCloud made with the deal to do UNE-P as the expansion program into the Quest territory. And there's certainly a successful CLEC on the model of an Allegiance who knows how to build network, understands that, but has chosen to do a major expansion through UNE-P.

MR. CROWNE: In the U.S. West territories.

MR. SCOTT: In the U.S. West territories. And you're seeing that company by company, location by location, but the gaining factor has been the state of regulation, and it's been tougher in Bell South's region.

MS. ATWOOD: But is it the state of regulation or the provisioning problems?

MR. SCOTT: It's been the state of regulation.

MR. GILLIAN: You can't get the provision until there's something to buy.

MR. JONES: I would point out, though, that Clark has done very well in the absence of the UNE-P and has relied primarily on resale as its entry strategy and may just see that there are greater margins associated with --

MR. SCOTT: In a particular kind of resale, which was a grandfathered Centrex (phonetic) arrangement that looked a lot like UNE-P margins.

MR. JONES: Right. And not necessarily the top 50

MSAs we're talking about.

MS. ATWOOD: But can I ask you the question now about -- because this is something that I just want to explore with you for a minute, because I think I'm getting your position. Let's say you've gotten through the regulatory hurdles and let's say there is a platform available and let's say that platform -- this Commission has said the provisioning of UNE-L is sufficient, as it has in New York and Texas. Where in that world, where you're talking about the vast majority of platform -- admittedly, the big guys are coming in and they're 90-percent level and they're using the platform for residentials. You've got your innovators that are coming in.

But you've got a Commission decision that, in fact, says that the provisioning for the hot cut performance is adequate. Help me understand why at that point, your arguments relating to the decisions that you make under those circumstances don't equally counsel for you to move to facility deployment. And the reason I ask it -- and this is just because while we're talking, we have always assumed that the platform had been a transitional, I mean, most people viewed it as a transitional mechanism to a facility's competition.

MR. SCOTT: Let me describe. This is a real-world example.

MS. ATWOOD: Yes.

MR. SCOTT: Because I'm on the road raising additional financing for Birch to support our facilities' build-out, and I do agree with you, this will be largely transitional for CLECs as we deploy facilities. The difficulty for us right now, not only a problem with the capital markets -- and they've lost faith in the ability of this model to work, they certainly don't believe that UNE-L works, and you see it reflected in the stock prices of everybody -- but the significant problem that we face right now is we're on the cusp of a new generation of switching technology.

And so, for us to continue to grow, if we had to use the UNE-L, our approach could be to go with Legacy Technology and deploy that, which we couldn't raise the money to do, or to go to the next phase of it. So, when we go to -- I'll give you an example. We're making decisions right now about expansion into the Bell South territory. Our approach will be over time, as we're doing in Texas right now, deploying a DSL network, which allows us to, in our opinion, economically deploy a loop that would carry all of the customers' traffic, even the small business customer. But it's a single loop.

We're not trying to coordinate six different loops and all the pain associated with that, because with the next generation of switching equipment that we're now trialing in a proof-of-concept lab, we would be able to deliver fully integrated voice and data over those facilities. So, yes, UNE-P does provide the bridge to that next generation of switching equipment. And I know people will disagree. Those who have existing circuits which are in place will take a different approach to that bridge. But right now, for the vast bulk of the industry, there is no capital available for the deployment of switching equipment into these markets using UNE loops.

MS. ATWOOD: Before you comment, can I ask you to talk -- Pace to talk about that, because I want to just get the perspective of the position that you're advocating. I keep reading the position as, you know, this Commission, the costs associated with your entry and the need for a platform really relate to the fact that we have an endemic provisioning problem that increases the costs associated with it. And where this Commission has said -- and in fact, if I'm understanding it right --

MR. GILLAN: I understand, and I just --

MS. ATWOOD: So, I just need to hear your take on that or if I got it wrong.

MR. GILLAN: I can only go back to what I was trying to articulate earlier. I think the Commission's finding that they're providing loops in an adequate way is true for the types of things those loops are used for at the levels that they're used for. And I think, you know, there is no absolutely clear bright line here that says, boy, when a customer hits eight, he can go, all right? You're always going to look out in the market and see some loops being purchased by people. You're going to see it at levels that are commercially insignificant.

Now, that doesn't mean that individual carriers are insignificant or, you know, like Allegiance, but when you add them all up and you compare that level of competitive activity to the dominant provider, you're going to see that it's really burbling around at a relatively low level. And yeah, it will grow larger, you know, every time they file a report, there will be more loops sold. But, you know, you're still down here five years after the Act, in effect -- or four years after the Act -- at a very low level.

I don't think that you have a conflict between on the one hand saying they're providing these loops for the markets that they're used to the carriers that need them at the levels that those loops are useful at in a way that satisfies the obligations of 271, while at the same time saying but the problems that exist in that kind of process prevent mass application in the manner that Congress wanted this Act to work and that's there's an impairment that requires that carriers have the opportunity to buy loops and ports together. I mean, let's face it, the local switch element was not only listed in 271, but it's actually the thing that Congress used when it gave an example in the -- whatever that thing is, the conference report --

MS. ATWOOD: When they talk.

MR. GILLAN: Yeah, when they talk. You know, the advantage of being an economist is you don't know the correct words to apply to those things. At any rate, when they gave the example of we don't expect people to replicate things immediately, that they're going to need to buy things from the ILEC, it didn't give the example of the loop, they gave the example of a local switch in the report. So, I don't think that you have -- you know, I'm an economist and not a lawyer, but it seems to me perfectly logical to reach a conclusion about their ability to provision loops for the market that they're used in as being adequate for 271 while at the same time saying that those processes are just systematically incapable of handling the volumes and in serving the broad type market that you want to see over here for the small analog customers.

And the data supports that conclusion, because where you've got UNE-P, you've got lost of competition, and where you don't, you don't.

MR. SCOTT: It seems to me the same logic could be applied to saying that where fiber was connected to a building, that the loop itself wasn't a required element.

MR. TRINCHESE: We'd agree to that.

MR. SCOTT: I know you would, I know you would. But I thought about that one too, and it would focus this discussion on the switchboard, but I guess if I were Time Warner Telecom, I'd feel just as strongly about the existence and the availability of a functional fiber optic connection to Omnet buildings, that is true, but it's functional for a certain type of business plan.

MS. ATWOOD: Well, I would -- the question there is what did we look at when we were evaluating the high performance, and I would agree with Michelle. We did look at scalability. We looked at how this could translate to a larger market, we looked at -- and so it isn't just looking to see the performance, we looked to see how the performance was done in a larger scale. But I hear you saying more than that, I think. I think you're saying we can make that determination but that still doesn't -- that shouldn't necessarily influence our view as to whether there is a need to retain an entry strategy for this, CLECs, right? I mean, that's what you're saying.

MR. HUNTER: Yes. Plus, I think if you took the logic of your argument and took it to its extreme, there's no basis for keeping residential separate either, and I think everybody in this room agrees that there is. And then, you get back into the notion of saying well, what looks more like what? Does residential look more like small business because all are served on an individual loop basis?

MS. ATWOOD: Do you guys want to respond to that?

MR. BANKS: I'd respond by saying one common sense way that you would distinguish them is when you do the impairment analysis, you look to see whether CLECs are successfully competing for a group of customers. And they are very successfully competing for small business customers.

(Multiple voices)

MS. ATWOOD: Let him have it, and then you guys can have more time on that.

MR. PHILLIPS: First of all, there is a difference, and the difference is an obvious one. The revenue stream, in general -- I mean, there are exceptions, there are high-use residential customers -- but in general, the revenue stream available for serving a business customer, even a small business customer, is higher than the revenue stream available from serving a residential customer.

MR. SCOTT: Actually, our residential line is the same for both, so it's not completely the case. It's the same for both.

MR. PHILLIPS: Well, I think, as a national rule, that that statement is correct. And when you're a CLEC and you're making business decisions about where you're going to go, you're going to go where the money is first. So, you're going to go to wire centers that serve predominantly business customers, more business customers, and you'll be able to justify the cost of your own facilities, co-location, et cetera, in those wire centers much more readily than you would if the wire center was serving predominantly residential customers.

MS. ATWOOD: Can I ask if -- since you say that your figures suggest differently, if you have different figures, can you put them -- not immediately -- but would you mind putting those on the record.

MR. PHILLIPS: Different figures about?

MS. ATWOOD: About the revenue stream for a business customer. You said it's the national average. I mean, if there's some objective -- I'm just trying to get the best --

MR. PHILLIPS: Well, I mean, I can tell you just -- this is just in one state, but in Indiana, my understanding was, for example, you know, we get forty bucks for a business line that we provide -- Ameritech provides to a business, and the same thing is eight dollars when provided to residential customer.

MS. ATWOOD: I'm just asking could you supplement the record with that?

MR. GILLAN: But when you -- here's the concern when you look at it that way. The comparison isn't between what do I get in the basic local rate for a business customer versus the basic local rate for a residential customer? Because almost nobody buys just basic local exchange service. Residential customers don't have that purchasing pattern. I've been looking at Bell South's numbers throughout the Southeast, and it's less than, generally, 5 percent of the population by just basic local exchange service. So, what you do have is, when you include a bunch of these revenue sources, what we're finding generally is that residents buy more features, et cetera, --

MS. ATWOOD: Well, you want those --

MR. GILLAN: Yeah, but that's why --

MR. BANKS: The average revenue flows to both, and Gary's just giving an example of the basic line rates. But obviously, we would give you the actual real revenue flow.

MR. SHAKIN: He's persuading me to rethink this biz-res split. I think maybe we should have --

(Laughter.)

MS. ATWOOD: I've got you on the record. You're biz-res split here. You can't take that back.

MR. BANKS: A lot of this is coming down to a